Office of the
Information & Privacy
Commissioner
for British Columbia

Protecting privacy. Promoting transparency.

O.R.L.
office of the
registrar
of lobbyists
BRITISH COLUMBIA

Service Plan

Fiscal Years 2013-2015

Presented to:

The Select Standing Committee on Finance and Government Services
Legislative Assembly of British Columbia

November 17, 2011

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Service Plan Message from the Information and Privacy Commissioner and the Registrar of Lobbyists

The past year was an extremely busy, productive and successful year for the Office of the Information and Privacy Commissioner (OIPC) and the Office of the Registrar of Lobbyists (ORL). We made significant progress in all six priority areas identified in last year's service plan.

I reorganized the OIPC and successfully established a policy team and hired a senior technical investigator. My office issued a number of key investigation reports and guidance documents including an investigation report on proactive release strategies for all public bodies, an investigation report regarding the security of online gaming and a security self assessment tool for small and medium sized businesses to name a few. We have two further major investigation reports in progress that will be issued in fiscal 2011/2012.

Last year we focused particular attention on delivering public education through speeches and conferences. We provided education sessions to more than 5000 individuals. Most significantly we held specialized training sessions to approximately 150 access professionals within a diversity of local public bodies (municipalities, schools, universities, health authorities and crown corporations). We had excellent feedback and are very encouraged by the results of investing in the people that manage access and privacy rights on a day to day basis. Investing in the administrators helps them do a better job and saves costs on appeals to our office.

We also organized a highly successful, and sold out, sixth annual private sector privacy conference in Vancouver this fall that was attended by 200 delegates, most of whom were chief privacy officers for small and medium sized businesses.

For many years my office has been challenged with the size of our OIPC caseload. Last fall I reported that I intended to implement a number of new strategies to tackle the backlog of cases and our response times. While the numbers reported here indicate that we did not meet our goals in fiscal 2010/2011, I am very pleased to report that in the first seven months of fiscal 2011/2012 we are on track to **exceed** our timeliness targets. We have, in fact, reduced our backlog from 180 files last November, to less than 100 files this November.

With respect to the goals set for the ORL last year, the Committee provided the ORL with an additional $50,000 which was used to hire auxiliary policy and compliance staff. For the past six months, they have assisted the Deputy Registrar by conducting 137 environmental scans, 43 which were referred to the Deputy Registrar, sixteen of which proceeded to formal investigation.

Looking forward to the next fiscal year, we have a challenging year ahead. The most significant challenge is the new mandate given to the OIPC under the Bill 3 amendments to the *Freedom of Information and Protection of Privacy Act*. The amendments to FIPPA require that the OIPC undertake four significant and new tasks. The OIPC does not currently have the resources to fulfill any part of this new mandate. The new mandate includes:

- Reviewing and commenting on privacy impact assessments respecting all common or integrated programs or activities or data-linking initiatives (s. 69(5.2) of FIPPA);
- Providing expert advice on the development of an information-sharing code of practice (new s. 69(9) of FIPPA);
- Providing expert advice on the development of regulations relating to collection of personal information based on consent (s. 76(2.1)(a) of FIPPA) and,
- Providing expert advice on the development of regulations respecting how data sharing initiatives must be carried out (s. 76(2.1)(b) of FIPPA).

In addition to these new responsibilities provided to my office under Bill 3, I must also engage in discussions about data linking rules that are necessary for the health sector. Bill 3 specifically carves the health sector out of the new rules that other public bodies must comply with. Most significantly, the health sector is not required to complete a PIA before data linking personal health information. It is very important that rules be established for the health sector to ensure there is not a lower standard for personal health information. The ministries of Labour, Citizen's Services and Open Government and Health have committed to discussing development of rules appropriate to protecting personal health information within the health sector. It is critical that this work begin immediately.

The amendments to FIPPA are attracting interest around the world because they take a new and innovative approach to protecting privacy while allowing for the delivery of Gov 2.0. British Columbians are relying on my office to ensure that privacy is built in to each and every one of these new initiatives. Public bodies are relying on my office to help guide them to accomplish these significant tasks.

November 17, 2011

ORIGINAL SIGNED BY

Elizabeth Denham
Information and Privacy Commissioner
for British Columbia

Vision

- A community where privacy is valued, respected and upheld in the public and private sectors;
- A community where access to information rights are understood and robustly exercised;
- A community where public agencies are open and accountable to the citizenry they serve; and
- A community where lobbying is understood, respected, and transparent.

Mandate

Under FIPPA and PIPA, the mandate of the Office of the Information and Privacy Commissioner ("OIPC") is to:

- Independently review decisions and practices of public bodies and private sector organizations concerning access to information and the protection of privacy;
- Comment on the implications for access to information or protection of privacy of proposed legislative schemes, automated information systems, record linkages, and programs of public bodies and organizations; and
- Educate and inform the public about access and privacy rights.

Under the Lobbyists Registration Act ("LRA"), the mandate of the Office of the Registrar of Lobbyists ("ORL") is to:

1) Promote awareness among lobbyists of registration requirements;
2) Promote awareness among the public of the existence of the lobbyists registry;
3) Manage registrations submitted to the lobbyists registry;
4) Monitor and enforce compliance with the Lobbyists Registration Act.

Who we serve

Under FIPPA, PIPA, and the LRA, the Office serves:

- the information and privacy rights of citizens and consumers; and
- the Legislative Assembly of British Columbia.

How we do our work

The OIPC mediates and investigates access to information appeals and privacy complaints, conducts audits, delivers public education, reviews and comments on the privacy or access implications of legislation, programs or systems, conducts formal hearings and issues binding orders.

The Office of the Registrar of Lobbyists for British Columbia ("ORL") is responsible for monitoring and enforcing compliance with BC's *Lobbyists Registration Act* ("LRA") and associated regulations. The ORL addresses concerns about the integrity of government decision making, in that it provides a public record of who is or has attempted to influence government decisions.

The ORL manages compliance through an interrelated spectrum of compliance strategies, including, in descending order, incentives, education and outreach to lobbyists and public office holders, verification of registration information, environmental scanning, reporting, investigation and administrative penalties, evaluation and adjustment. Each element of this strategy reinforces the others to achieve the objective of the Act, specifically enhancing transparency, accountability and integrity in lobbying.

SERVICE PLAN OF THE OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER

Goals, Strategies and Performance Measures

Goal 1—An Open and Accountable Public Sector

The goal of FIPPA is to ensure public bodies are accountable to the citizenry. It does so by giving the public a right to request records in the custody and control of public bodies and requires those public bodies to respond to access requests openly, accurately and without delay. Last year I indicated that my first priority was to encourage government ministries and other public bodies to consider ways to make information available, in a timely fashion, without a formal access to information request through proactive disclosure. I am pleased to report that there have been significant improvements both in the area of timely response to access requests as illustrated in the table below, and in the area of proactive disclosure.

In an investigation report dated May 16, 2011 I provided guidance on proactive release strategies for all public bodies[1]. Shortly thereafter, the provincial government published its Open Information and Open Data Policy[2] and launched its Open Information[3] and Open Data[4] websites. On October 4, 2011 government introduced Bill 3 – *Freedom of Information and Protection of Privacy Amendment Act, 2011*. Included in the amendments were changes to s. 71 of FIPPA. The new provisions require the head of each public body to establish categories of records that must be made available to the public without a request.

[1] Order F11-02: http://www.oipc.bc.ca/orders/investigation_reports/InvestigationReportF11-02.pdf
[2] Open Information & Open Date Policy: http://www.cio.gov.bc.ca/local/cio/kis/pdfs/open_data.pdf
[3] Open Information website: http://www.openinfo.gov.bc.ca/
[4] Open Data website: http://www.data.gov.bc.ca/

Strategies

- In the past we have assessed how open and accountable the public sector is by evaluating response time to access requests. This year we intend to develop an access to information framework that provides guidance for public bodies on how to build a proactive disclosure and open data program.

- We intend to monitor the implementation of the new requirement that the head of each public body establish categories of records to be made available without request.

Performance Measure	2009/10 Final	2010/11 Target	2010/11 Final	2011/12 Target	2012/13 Target
1. Average processing days for all ministries (business days)	24	24	22	21	20
2. Percentage of access requests processed on time by all ministries	90%	90%	93%	94%	95%

Data Source: The data for 2009/10 final was obtained from the OIPC report, "It's About Time", released in August, 2010. The data for 2010/2011 final was obtained from the OIPC report, "Report Card on the Timeliness of Government's Access to Information Responses", released September 22, 2011.

Goal 2—Protection of Privacy in Networked Systems and New Technologies

New technologies and networked systems present unique privacy challenges for government, businesses and regulators. They allow public bodies and organizations to gather, store and link extensive amounts of personal information. The technology can be complex, the security arrangements may be difficult to understand and organizations and government don't necessarily know how to properly use new technology in a manner that best protects personal information. However, citizens expect to interact with government and businesses using these same new technologies. The BC Government has continued to work towards its ambitious goal of "citizen centric services" which includes a plan to link its electronic networks which will result in increased collection, use and disclosure of personal information to a broader audience, inside and outside government.

In my budget submission last year I indicated that my plan was to address these issues in part by redirecting energy into investigations of systemic issues, audits and special reports, recommending best practices and developing guidelines that will allow governments and the private sector to fully avail themselves to new technologies while

protecting privacy at the same time. As a result of the funding decisions made last year I was able to hire a full time senior technical investigator who has helped us to investigate a number of systemic issues relating to new technologies.

In the past 12 months my office issued Guidance on Social Media Background Checks and we issued an investigation report into a privacy breach involving an online gaming platform. That report set standards for reasonable security when government delivers services online. This spring we launched a security self assessment tool that was developed in cooperation with the Office of the Information and Privacy Commissioner of Alberta and the Privacy Commissioner of Canada. This tool assists small and medium sized businesses to evaluate the quality of the security arrangements. We anticipate releasing two further investigation reports in the next few months regarding the privacy implications of smart meters and facial recognition technology.

Strategies

- In order to fulfill our new mandate under Bill 3 our strategies for the next year will include:
  - Provide input on the Information Sharing Code of Practice development by the Minister of Labour, Citizens' Services and Open Government;
  - Provide input on regulations under FIPPA related to data sharing and data–linking;
  - Develop privacy impact assessment guidelines for data linking and data sharing projects;
  - Educate public bodies on the guidelines and our expectations with respect to privacy impact assessments;
  - Provide input on the establishment of an Advisory Committee relating to identity management; and,
  - Review, comment on and monitor the privacy and security implications related to the provincial identity management system.
  - Review , comment on and monitor the privacy and security implications related to the CareCard project

- It is very significant that the Bill 3 rules relating to data sharing and data linking do not apply to the health sector. It is extremely important that work begin immediately to develop rules that meet the unique needs within the sector. This year our strategies in the health sector will include:
  - Engage in consultations with the Ministry of Health, and health sector stakeholders on data-linking rules specific to the health sector;

- Monitor the Provincial Electronic Health Record project and,
- Audit an electronic health record information system.

➢ The OIPC will continue to engage in cross-jurisdictional investigations of private sector privacy complaints and breaches. The advantage of cross-jurisdictional investigations is that the resulting findings and recommendations may have a more widespread influence and can better promote consistency of interpretation and compliance across jurisdictions. In support of these investigations, we will work with our federal and provincial colleagues to develop an investigation protocol.

Performance Measure	2009/10 Total	2010/11 Total	2011/12 Target	2012/13 Target	2013/14 Target
3. Percentage of OIPC post-investigation recommendations implemented by affected public bodies and organizations	92%	98%	95%	95%	95%
Data Source: As part of the OIPC investigation process, OIPC investigators ascertain compliance with recommendations at the conclusion of each investigation and record them in the case file. The data is for all resolved privacy complaint and privacy breach files closed during the identified time period.					

Goal 3—Increase Awareness of Privacy Rights and Responsibilities

My office has the responsibility to educate the public about PIPA and FIPPA. Last year I highlighted my intention to focus significantly more energy on my public education duties. We have attempted to satisfy this duty using a variety of strategies including op/ed pieces in local papers, presentations to large groups and organizations, delivery of conferences and creation of guidance documents.

In 2011/12 we will deliver 66 presentations, reaching a significantly larger number of people (almost 5000) in comparison to previous years where we reached slightly more than 1000 individuals. More importantly, we have attempted to reach audiences of access and privacy professionals who will in turn, pass on the information we provide. We have so far organized 3 conferences this year. We organized two one-day conferences for access and privacy specialists in public bodies. In total 80 public bodies sent a total of 150 access and privacy specialists to this training. Further, with our colleagues at the Alberta Office of the Information and Privacy Commissioner, we organized the 6th annual PIPA Conference which sold out with over 200 attendees, most of whom were chief privacy officers for businesses operating in western Canada.

We have also worked diligently on creating a new OIPC website but due to some technical difficulties, we have not yet launched the new website.

Strategies

- Issue privacy impact assessment guidance suitable for public and private sector;
- Educate public bodies and organizations on how to conduct a privacy impact assessment;
- Promote strong privacy management frameworks within public bodies and organizations using guidance documents, op/ed pieces and educational seminars;
- Issue guidance to public bodies and organizations on the establishment of accountability privacy management framework;
- Educate the public about their rights under FIPPA and PIPA using guidance documents, OIPC website, newspaper articles and public speeches;
- Co-host a 7th annual PIPA conference; and,
- Co-host a Western Canadian Health Information Privacy Conference.

Performance Measure	2009/10 Total	2010/11 Total	2011/12 Total*	2012/13 Target	2013/14 Target
4. Number of OIPC presentations	59	46	66	75	80

*Current year total is estimated based on the presentations for the period April 1, 2011 through September 30, 2011

Goal 4—Efficient and Effective OIPC Operations

Most of our efforts are dedicated to providing independent and binding oversight to the more than 1000 complaints and reviews we receive each year. Over the years we have tried a variety of strategies to streamline our process and improve our response times. Last year, I reported that we had a backlog of about 180 files. I identified four strategies in my service plan. We implemented these strategies over the last six months of 2010 and have continued to work at improving our efficiencies. Our backlog currently stands at under 100 files which is a significant improvement over last year.

We did not reach our performance targets for closing of requests for review within 90 business days nor for closing complaints within 120 business days in fiscal 2011. However, the statistics for the first six months of the 2011/2012 fiscal year suggest that we will certainly meet and likely exceed both targets this year. [5]

[5] For the period April 1, 2011 to September 30, 2012 we have closed 57% of our requests for review within 90 business days and 76% of our complaints within 120 business days. We expect to receive roughly the same total number of complaints and reviews this year as last.

One of the key strategies we implemented was to develop a fair and streamlined process to determine whether an appeal or complaint has merit and whether a matter should proceed to a formal inquiry hearing. These strategies have taken some time to develop and implement and we believe part of the improvement in timing we are now seeing is attributable to that process. With the creation of the new policy unit in my office, investigators who previously did both policy and investigation work, have been able to focus all of their attention on complaint and review investigations. This has also improved the efficiency of these investigations.

Strategies

- In the next year we will complete the development of fair "gate keeping" criteria that can be used at an early stage to identify complaints and reviews that should not proceed through an investigation or mediation process.

- I will also continue the strategy of re-assigning and re-aligning resources as necessary to address high traffic areas. For example, where necessary, assign more existing resources to intake or early resolution and use temporary contracted services to fill any gaps in investigation. I intend to use a flexible & agile service delivery model to support all of the goals and strategies of the IPC. I will leverage other IPC offices resources, participate in joint projects where possible, use temporary contracted services for time limited projects and reassign IPC staff as necessary.

Performance Measure	2010/11 Target	2010/11 Total	2011/12 Target	2012/13 Target	2013/14 Target
5. Proportion of FIPPA and PIPA requests for review settled without inquiry	94%	92%	94%	95%	95%
6. Proportion of FIPPA and PIPA review files resolved within 90 business days	52%	48%	55%	55%	55%
7. Proportion of FIPPA and PIPA complaint files resolved within 120 business days	62%	55%	63%	64%	65%
8. Average number of orders and other decisions produced per adjudicator per year	20	20	22	24	26

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SERVICE PLAN OF THE OFFICE OF THE REGISTRAR OF LOBBYISTS

Goal 1—Provide education and outreach for lobbyists, public office holders and the public

The Office of the Registrar of Lobbyists ("ORL") recognizes that achieving province-wide compliance with the *Lobbyists Registration Act* ("LRA") depends first and foremost on ensuring that designated filers clearly understand what types of communications trigger the legal requirement to register, the registration process and where to receive further information about the LRA. Educating the public about the existence of and uses of the public lobbyist registry is critical to achieving the policy objective of transparency.

Strategies

- Develop and publish educational material for posting on the ORL website, including general guides, self-assessment, FAQs, advisory bulletins and newsletters.
- Develop and deliver province-wide compliance workshops targeted at government relations experts, consultant lobbyists, public relations and communications experts, and "organizations", which include non profit and industry associations, chambers of commerce, boards of trade, coalitions, special interest groups and labour organizations.
- Develop and deliver targeted workshops for public office holders.
- Develop and deliver targeted workshops and advisory materials for members of the public.
- Publish ORL newsletter, "Influencing BC" and circulate widely.
- Manage and keep current the Office of the Registrar of Lobbyists website: www.lobbyistsregistrar.bc.ca
- Publish monthly summaries of registered lobbying activities in the province.

Performance Measures – Goal 1

	2011/12 Target	2011/12 Actual	2012/13 Target	2013/14 Target	2014/15 Target
New educational material developed and posted on website and distributed to the lobbyist community.	15	19	6	6	6
Workshops for lobbyists on LRA requirements	4	5	4	4	4
Workshops for public office holders on the LRA	2	2	2	2	2
Workshops for the public on the LRA	2	2	2	2	2
Publication of Influencing BC – an E-zine on lobbyists, lobbying, and transparency in public influence	3	3	3	3	3
Number of speaking engagements for the Deputy Registrar of Lobbyists	5	5	5	5	5

Goal 2—Monitor and Enforce the *Lobbyists Registration Act*

The ORL employs several strategies to monitor and enforce the LRA: verification of registration information, environmental scanning, investigation and administrative penalties.

Strategies

- Analyze a variety of publicly available information sources to identify government priorities, organization priorities and possible unregistered lobbying.
- Work to enhance data integrity of registrations.
- Conduct preliminary and formal investigations as appropriate.
- Establish and maintain ongoing dialogue with stakeholder groups (including those who lobby, those who employ lobbyists, and those who are lobbied) about hurdles to registration and compliance.

Performance Measures – Goal 2

	2011/12 Target	2011/12 Actual	2012/13 Target	2013/14 Target	2014/15 Target
Number of new registrations	Increase of 10%	Increase of 10%	Increase of 10%	Increase of 10%	Increase of 10%
Number of registrations received on time	85%	85%	90%	95%	95%
Conduct Environmental Scans	150	131	150	175	175
Conduct administrative reviews	15	43	50	60	60
Conduct compliance investigations	5	16	15	20	20
Meetings with stakeholders to identify compliance hurdles	2	2	2	2	2

Appendix 1—Caseload Statistics—OIPC

Files Received by File Type					
File Type	**Fiscal 2007/08**	**Fiscal 2008/09**	**Fiscal 2009/10**	**Fiscal 2010/11**	**Fiscal 2011/12 Projected***
Appeals (requests for review)	693	629	562	538	528
Complaints	454	491	573	561	616
Requests for time extensions	352	277	382	352	242
Policy consultations	110	127	104	65	98
Review of bills	43	57	42	37	44
Speeches	58	74	59	47	78
Privacy breach reviews	68	80	71	65	86
Others**	459	564	564	534	639
Sub total	**2237**	**2225**	**2176**	**2199**	**2331**
General requests for information & assistance	1012	1003	1347	1343	960
Total all files	**3249**	**3228**	**3658**	**3542**	**3291**

*Data extrapolated from number of files received between April 1, 2011 and September 30, 2011
** Other files types include media inquiries, conference attendance, copy only (FYI letters), projects

Appendix 2—Office Structure—Office of the Information and Privacy Commissioner